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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,703	11/22/2004	Heiko Zimmermann	B1180/20133	5121
3000 7590 01/13/2011 CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOV, LTD. 11TH FLOOR, SEVEN PENN CENTER 1635 MARKET STREET PHILADELPHIA, PA 19103-2212				
EXAMINER NOLAND, THOMAS				
ART UNIT 2856		PAPER NUMBER		
NOTIFICATION DATE 01/13/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@crbcp.com

# Office Action Summary

**Application No.**

10/501,703

**Applicant(s)**

ZIMMERMANN ET AL.

**Examiner**

THOMAS P. NOLAND

**Art Unit**

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 October 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 and 19-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-17 and 19-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 16 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20041014  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

1. Applicant's election without traverse of the invention of Group 2, claims 9-14 and 20 in the reply filed on Oct. 1, 2010 is acknowledged.
2. In view of the election: the Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2856.

Further in view of the election, and upon further consideration, the holding of lack of unity has been withdrawn and all claims have been examined.

3. Appropriate ones and forms of the headings listed in paragraph 3 below must be inserted into the specification, preferably by Applicant.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).

- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informalities: on page 1, 3<sup>rd</sup> paragraph, lines 2-3 " at the . . . patent application " should be replaced with - - - when this application was filed in Germany - - -. Reference to specific claim numbers on page 3, 2<sup>nd</sup> complete paragraph should not be made.

Appropriate correction is required.

5. The drawings are objected to because in order to better comply with 37 CFR 1.437 (b) and PCT Rule 11.11 (a) in Fig. 1 block elements 50 and 60 should be labeled with the respective legends - - - Transmission Antenna - - - and - - - Control and Evaluation Device - - -. Corrected drawing sheets in compliance with 37 CFR 1.471(a) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date

of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.471(a). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-17 and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if limitations beginning with " , especially " as in lines 1-2 of claims 1 and 9 are intended to actually limit the preceding limitation.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-2, 4-6, 9-11, 13-15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiest et al EP 974798 A2, cited in the IDS. Note especially its EPO and Derwent English abstracts cited herewith and the claims. Note the translated claims in EP 974798 B1 cited with the document in the IDS although published after the PCT filing date are considered evidence of the claims in the earlier A2 document where claims 1 + 5, 2-4 and 6-17 in the A2 document are believed to correspond substantially in the disclosure relevant herein to claims 1, 2-4 and 5-16 in the B3 document. Note

especially claims 1 and 9-10 in the B3 document. The electrical oscillating circuit in claim 10 is considered to be a resonant circuit and the electromagnetic coil would inductively transmit data to the reading device for its wireless transmission by the antenna as noted in the English abstracts.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 8, 12, 16-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiest et al. Wiest et al does not appear to specifically disclose operation at below minus 40 degrees Centigrade, having the data storage integrated in a data processing unit, having a control and evaluation device in the freezer or the use of liquid nitrogen as claimed. However such are believed to have been obvious expedients or alternatives to use in similar such systems from the teachings of Wiest et al since clearly the data transmission taught therein is not dependent on the exact temperature or mode of freezing and thus it would have been obvious to use in a similar such system operated under such conditions or by such means when such was needed or convenient. Similarly addition of extra electronic means such as a data processing unit, evaluation means, etc. in such a system would have been obvious expedients to enhance its utility since the benefits in the use of such is well known.

12. Claims 1-2, 4-6, 8-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bara et al (WO 00/33005, cited in the IDS, US 6,677,857, cited in the

IDS or US 2002/0023441). Bara et al especially in its abstracts, in page 5, lines 5-12 of WO 00/33005, col. 3, lines 9-17 of US 6,677,857 and paragraph [0021] of US 2002/0023441 and the drawing in US 6,677,857 discloses a method of operating a cyrostorage device or a cyrostorage device substantially as claimed but does not appear to specifically set forth the use of a resonant circuit as claimed or inductive transmission. However such would have been obvious expedients to have used therein if not already present in view of the use of a high frequency coil for transmission therein for reasons analogous to those given in the above rejections. The details of claims 8, 12, 16-17 and 20 would have been obvious for similarly analogous reasons. Note the disclosure of WO 00/33005 was presumed to be substantially the same as that in US 6,677,857 and US 2002/0023441.

13. Claims 1-2, 4-6, 8-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howell et al GB 2308947, cited in the IDS. Howell et al especially in the abstract, drawings and on page 5, 2<sup>nd</sup> full paragraph discloses a method of operating a cyrostorage device or a cyrostorage device substantially as claimed but does not appear to specifically set forth the use of inductive transmission. However such would have been an obvious expedient to have used therein if not already present in view of the use of a coil for transmission therein for reasons analogous to those given in the above rejections. The details of claims 8, 12, 16-17 and 20 would have been obvious for similarly analogous reasons.

14. The non prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose monitoring of cyrostorage locations.

15. Claims 3, 7 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2800 Customer Service at (571) 272-2815.

**/Thomas P. Noland/  
Primary Examiner  
Art Unit 2856**

January 7, 2011